

IN the Matter of AMERICAN FORK & HOE COMPANY, CLEVELAND, OHIO  
and MASTER WORKMEN OF AMERICA, INCORPORATED, 1305 E. WASH-  
INGTON STREET, CHARLESTON, WEST VIRGINIA, AND CONSOLIDATED  
WORKERS OF AMERICA, INCORPORATED, 1329 FRAME STREET, CHARLES-  
TON, WEST VIRGINIA

*Cases Nos. C-636 and C-637.—Decided July 15, 1939*

*Axe and Tool Manufacturing Industry—Settlement:* stipulation providing for compliance with the Act—*Order:* entered on stipulation.

*Mr. Oscar Grossman, Mr. W. J. Perricelli, and Mr. Robert E. Greene, for the Board.*

*Waite, Schindel & Bayless, by Mr. John R. Schindel, of Cincinnati, Ohio, and Price, Smith & Spilman, by Mr. Hawthorne N. Battle, of Charleston, W. Va., for the respondent.*

*Mr. H. W. James, of Charleston, W. Va., for the M. W. A.*

*Mr. Alma Jarrett, of Charleston, W. Va., for the Consolidated.*

*Mr. F. Hamilton Seeley, of counsel to the Board.*

## DECISION

AND

## ORDER

### STATEMENT OF THE CASE

Upon separate charges and amended charges duly filed by Master Workmen of America, Incorporated, herein called the M. W. A., and by Consolidated Workers of America, Incorporated, herein called the Consolidated, the National Labor Relations Board, herein called the Board, on April 27, 1938, acting pursuant to Article II, Section 37 (b), of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered that the two cases be consolidated for the purpose of hearing. The Board, by the Regional Director for the Ninth Region (Cincinnati, Ohio), issued its complaint dated April 29, 1938, and its amended complaint dated May 10, 1938, against American Fork & Hoe Company, Cleveland, Ohio, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce

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within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, amended complaint, order of consolidation, and notice of hearing thereon, were duly served upon the respondent, the M. W. A., and the Consolidated.

Concerning the unfair labor practices, the complaint, as amended, alleged in substance that the respondent terminated the employment of and refused to reinstate three named employees because they joined and assisted the M. W. A. and engaged in concerted activities with other employees of the respondent for the purposes of collective bargaining and other mutual aid and protection; that the respondent refused to reinstate 57 named employees because they had gone out on strike and because they joined and assisted the Consolidated and engaged in concerted activities with other employees of the respondent for the purposes of collective bargaining and other mutual aid and protection; that the respondent during and after the strike sought to compel and induce certain of its striking employees to return to work as new employees, with loss of their former positions and seniority rights, for the reason that they went out on strike and joined the Consolidated; that the respondent employed labor spies and caused them to pose as members of the M. W. A. and of the Consolidated in order to report on the union activities of its employees and to dominate and interfere with the formation and administration of the M. W. A. and of the Consolidated by becoming officers and members of said organizations and thereby influence the policies of said organizations; that the respondent advised its employees that the respondent would not recognize any labor organization in general, or the Consolidated in particular; that the respondent, by the afore-mentioned activities and by other acts, interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

On May 7, 1935, the respondent filed a motion to require the complaint to be made definite and in the alternative for dismissal of the complaint. The Regional Director for the Ninth Region denied this motion without prejudice to renew the same before the Trial Examiner at the hearing. At the same time the Regional Director denied the respondent's motion to strike certain parts of the complaint, and to dismiss the proceedings with respect to certain persons and organizations. The respondent's motion for severance of the consolidated cases was denied, without prejudice, by an order of the Board dated May 11, 1938.

On May 19, 1938, the respondent, the Consolidated, and counsel for the Board entered into a stipulation in settlement of the case. This stipulation provides as follows:

#### STIPULATION

##### I

It is hereby stipulated and agreed by and between the Respondent, American Fork & Hoe Company, by its attorneys, and Consolidated Workers of America, Incorporated, by its Secretary, and the Attorneys of the National Labor Relations Board, Ninth Region, as follows:

1. Upon separate charges duly filed by the Master Workmen of America, through Henry James, Secretary of said Union and its duly accredited agent for this purpose, and by the Consolidated Workers of America, Incorporated, through Alma Jarrett, its Secretary and its duly accredited agent for this purpose, Philip G. Phillips, Agent of the National Labor Relations Board, acting pursuant to authority granted in Section 10(b) of the National Labor Relations Act, approved July 5, 1935, and acting pursuant to its Rules and Regulations, Series 1, as amended, Article IV, Section 1, issued its Complaint and Notice of Hearing on the 29th day of April, 1938, against Respondent, American Fork & Hoe Company, and issued its Amended Complaint and Notice of Hearing on the 10th day of May, 1938, against said Respondent.

2. The original Complaint, Charge of Consolidated Workers of America, Inc., First Amended Charge of Master Workmen of America, Inc., Order of Consolidation and Notice of Hearing thereon, as well as a copy of the Rules and Regulations, Series 1, as amended April 27, 1936, were duly served upon the Respondent and upon the Master Workmen of America, Incorporated, and upon the Consolidated Workers of America, Incorporated, on April 30, 1938, in accordance with said Rules and Regulations, Series 1, as amended, Article V, Section 1, which hearing was to commence at 9:30 A.M., on May 9, 1938, in the Federal Building, City of Charleston, County of Kanawha, State of West Virginia, thus allowing an intervening period of nine (9) days between the service of said Complaint, Charges, Order of Consolidation, Notice of Hearing and a copy of the Rules and Regulations and the date of the hearing thereon, which hearing was continued until May 16, 1938; and the Amended Complaint, First Amended Charge of Consolidated Workers of America, Inc., First Amended Charge of Master Workmen of America,

Inc., Order of Consolidation and Notice of Hearing thereon, as well as a copy of the Rules and Regulations, Series 1, as amended April 27, 1936, were duly served upon the Respondent and upon Master Workmen of America, Incorporated, and upon the Consolidated Workers of America, Incorporated, on May 11, 1938, in accordance with said Rules and Regulations, Series 1, as amended, and Article V, Section 1, which hearing thereon was to commence at 9:30 A. M., on May 16, 1938, in the Federal Building, City of Charleston, County of Kanawha, State of West Virginia, thus allowing an intervening period of five (5) days between the service of said Amended Complaint, Amended Charges, Order of Consolidation, Notice of Hearing and a copy of the Rules and Regulations, and the date of the hearing thereon.

3. Respondent, American Fork & Hoe Company, is and has been continuously at all times since 1900 a corporation organized and existing by virtue of the laws of the State of Ohio, having its principal office and place of business in the City of Cleveland, County of Cuyahoga, State of Ohio, and is now and has been continuously at all times since August 1, 1930, engaged in a place of business known as the Kelly Axe & Tool Division of the American Fork & Hoe Company, near the City of Charleston, County of Kanawha, State of West Virginia, hereinafter called the Kelly Axe Division, in the manufacture and distribution of axes, scythes and other tool products. As an integral part of its business, Respondent owns and operates plants in the states of Ohio, Pennsylvania, New York, Vermont, North Carolina, Georgia, West Virginia, Tennessee and Indiana.

4. The Master Workmen of America, Incorporated, and the Consolidated Workers of America, Incorporated, and each of them, are labor organizations within the meaning of Section 2, Subdivision (5) of the National Labor Relations Act.

5. Respondent, American Fork & Hoe Company, is engaged in Interstate Commerce within the meaning of Section 2, Subdivisions (6) and (7) of the National Labor Relations Act.

6. The principal raw and other materials which the Respondent, American Fork & Hoe Company, uses in its business at the Kelly Axe Division are as follows: Steel, Wood Handles, Grinding Wheels, Glue and Grain. The total cost of these raw and other materials used by the Respondent in its Kelly Axe Division for the fiscal year May 1, 1936, to April 30, 1937, was in excess of Eight Hundred Thousand (\$800,000) Dollars.

During the fiscal year above mentioned the Respondent purchased these aforementioned raw and other materials in states of

the United States other than the State of West Virginia, principally in the states of Pennsylvania, Ohio, Tennessee, Kentucky, Massachusetts and New York, and, in the course and conduct of its business, causes and has continuously caused these raw materials used by it in the production of axes, scythes and other tool products, to be transported in interstate commerce from the above mentioned states to the aforesaid Kelly Axe Division in the State of West Virginia, and there these raw and other materials are manufactured by the Respondent into axes, scythes and other tool products.

7. The value of said axes, scythes and other tool products produced in the Kelly Axe Division was in excess of Two Million (\$2,000,000) Dollars for the fiscal year May 1, 1936, to April 30, 1937, and in the course and conduct of its business at the Kelly Axe Division, the Respondent causes and has continuously caused its entire production of the axes, scythes and other tool products to be transported by railroad carrier from its Kelly Axe Division in the State of West Virginia, to purchasers in practically all of the States of the United States.

8. Respondent, American Fork & Hoe Company, waives its right to file an answer to said Complaint and Amended Complaint and each of them of the National Labor Relations Board, and its right to hearing on said Complaint, Amended Complaint and each of them as set forth in Section 10 (b) and 10 (c) of the National Labor Relations Act, insofar, and insofar only, as they relate to Consolidated Workers of America and its members.

## II

It is further stipulated and agreed by and between the American Fork & Hoe Company, Consolidated Workers of America, Inc. and National Labor Relations Board, that the National Labor Relations Board may forthwith enter an Order in the above entitled cause to the following effect:

Respondent, American Fork & Hoe Company, shall:

1. Cease and desist:

(a) From in any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the National Labor Relations Act.

(b) From discouraging membership in the Consolidated Workers of America, Incorporated, or in any other labor organization

of its employees, by discharging, threatening or refusing to reinstate any of its employees for joining or assisting the Consolidated Workers of America, Incorporated, or any other labor organization of its employees, or for engaging in other concerted activities for the purpose of collective bargaining or other mutual aid and protection.

(c) From in any other manner discriminating against any of its employees in regard to hire and tenure of employment, or terms and conditions of employment, for joining or assisting the Consolidated Workers of America, Incorporated, or any other labor organization of its employees, or for engaging in other concerted activities for the purpose of collective bargaining or other mutual aid and protection.

(d) From hereafter employing or using the services of labor spies or otherwise engaging in any kind of labor espionage.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the National Labor Relations Act:

(a) Offer to the following, and no others, except as hereinafter provided:

- |                   |                       |
|-------------------|-----------------------|
| 1. Arthur Bogges  | 13. Ed. Milam         |
| 2. Coda Dyer      | 14. C. Basil McCubbin |
| 3. Edd Gadd       | 15. John McKinney     |
| 4. V. T. Graham   | 16. R. E. McKinney    |
| 5. Ursula Hammack | 17. Ira J. Miller     |
| 6. Clark King     | 18. J. P. Randolph    |
| 7. H. B. Hundley  | 19. Dorothy Rhodes    |
| 8. Alma Jarrett   | 20. Holly Sigmon      |
| 9. Delia Jones    | 21. Geo. Smith        |
| 10. Geo. Jones    | 22. Verda Thaxton     |
| 11. Alma Layne    | 23. Wm. Waugh         |
| 12. E. B. Mangis  |                       |

full reinstatement, restoring said twenty-three (23) employees to the positions which they held prior to the strike in June, 1936, without prejudice to any seniority rights or to any other rights and privileges enjoyed by them; and in the event any of the positions held by any of the above named employees previous to the strike in June, 1936, are no longer in operation or existence, offer to such employees full reinstatement, without prejudice to any seniority rights or to any other rights and privileges previously enjoyed by them, to positions similar or substantially equivalent to those positions held by such employees prior to the strike in June, 1936. Any twelve (12) of said employees shall be, in writing, so offered such reinstatement within ten (10) days after Respondent is notified by the Regional Director that the National

Labor Relations Board has approved the terms of this stipulation, and the balance of said employees shall be, in writing, so offered such reinstatement within thirty (30) days after said notification.

(b) Offer to

1. Staunton Campbell
2. Birdie Kessell
3. Nellie Thomas

full reinstatement, restoring said employees to the positions which they held prior to the strike in June, 1936, without prejudice to any seniority rights, or to any other rights and privileges enjoyed by them; and in the event any of the positions held by any of the above named three (3) employees previous to the strike in June, 1936, are no longer in operation or existence, offer to such employees full reinstatement, without prejudice to any seniority rights or to any other rights and privileges previously enjoyed by them, to positions similar or substantially equivalent to those positions held by such employees prior to the strike of June, 1936. Provided, however, that such reinstatement of each of said three (3) employees is conditional upon the receipt by Respondent from the Regional Director, Ninth Region, of the National Labor Relations Board of the written results of a physician's physical examination of each of said employees, to be made within ten (10) days after Respondent is notified by said Regional Director that said Labor Board has approved the terms of this stipulation, together with a written notice, based on said physical examination, of his determination that said employee is physically fit to be employed by Respondent. In the event such Regional Director determines that any of said employees are suffering from such physical disability that he or she is unfit to be employed, then Respondent shall be fully released from any obligation in respect to the reinstatement of such employee. In the event such Regional Director notifies Respondent that he has determined that any of said employees should be so reinstated, then the Respondent shall, within ten (10) days after the receipt of said notice from said Regional Director, offer said employee such reinstatement as aforesaid. The Regional Director shall designate one or more of the following physicians to make such physical examination:

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|----------------------|-----------------------|
| 1. G. C. Schoolfield | 4. S. H. Phillips     |
| 2. J. Ross Hunter    | 5. H. W. Angell       |
| 3. J. B. Banks       | 6. V. Eugene Holcombe |

(c) Offer to Walter Parsons, whenever a scythe grinder is needed by Respondent in its said Kelly Axe Division and said Parsons is eligible therefor by reason of his seniority status as a

scythe grinder, full reinstatement to the position which he held prior to the strike in June, 1936, without prejudice to seniority rights or any other rights and privileges previously enjoyed by him.

(d) Place the following:

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|---------------------|--------------------|
| 1. Altha Atkinson   | 16. E. E. McKinney |
| 2. Carl Burnem      | 17. G. S. Meadows  |
| 3. Fred Burnem      | 18. E. M. Miller   |
| 4. C. R. Carney     | 19. Stacie Miller  |
| 5. Dorothy Carney   | 20. J. D. Mills    |
| 6. Waldo Carney     | 21. O. E. Parson   |
| 7. Odie Casto       | 22. C. B. Pitts    |
| 8. Garnet Chaney    | 23. Marvin Scragg  |
| 9. Osa Cummings     | 24. Pearl Shaffer  |
| 10. Howard Ford     | 25. Mabel Sigmon   |
| 11. W. W. Graham    | 26. J. R. Taylor   |
| 12. Clarence Harper | 27. Ova Taylor     |
| 13. Calle Jones     | 28. W. J. Waddy    |
| 14. Muriel Lanham   | 29. Lottie Woods   |
| 15. Delbert Legg    | 30. Gatha Woodson  |

on a preferential employment list which shall mean that each of said parties shall be reemployed by Respondent when needed in said Kelly Axe Division before any other person of less or equal seniority rating and efficiency whose name does not appear on said list is employed in the department wherein the respective employee may have worked. In the case of equal or greater seniority rating of the employees named in the above list, and other employees of the Respondent then laid off, the question of efficiency shall be submitted to the Manager of said Kelly Axe Division and a representative of the National Labor Relations Board, Ninth Region, to be designated by the Regional Director, whose decision shall be binding.

In the event of disagreement between said representatives, the facts shall be submitted to the Regional Director, Ninth Region, whose decision shall be final.

In the event of the reemployment of any of the above employees, they shall receive full reinstatement, restoring said employees to the positions which they formerly held prior to the strike in June, 1936, without prejudice to any seniority rights or to any other rights and privileges previously enjoyed by them.

Respondent shall, within ten (10) days after being notified by the Regional Director, Ninth Region, that the National Labor Relations Board has approved the terms of this stipulation,



notify said employees, hereinbefore in this section (d) set forth, in writing to file a written statement expressing their desire that their names be retained on this preferential employment list, and if said written statement is not filed within thirty (30) days after the receipt, to be evidenced by a registered mail return receipt, of said written notice, then such employee's right to be placed on said preferential list shall cease. In the event any of said employees are immediately needed by Respondent, then the provisions of Division II, Section 2 (a) hereof shall apply.

(e) If any of said employees do not accept such offer of reinstatement by reporting for work at said Kelly Axe Division within ten (10) days after the receipt, to be evidenced by a registered mail return receipt signed by the respective employee, of a written offer of employment, their right to such reinstatement shall cease and terminate. Except said period of ten (10) days shall be extended for a maximum period of two (2) months if said employee is physically unable to report for work and so notifies Respondent in writing, and gives Respondent a written statement to that effect signed by a physician.

(f) Pay the sum of Five Thousand (\$5,000.00) Dollars in full settlement of any and all loss of pay suffered by the employees named in paragraph 7 and referred to therein as Schedule A of said Amended Complaint, and each of them, by reason of their discharge. Said sum shall be paid by Respondent to the parties and in the amounts shown in Schedule I attached hereto and made a part hereof.<sup>1</sup>

(g) Post notices to its employees in conspicuous places on each bulletin board in the Kelly Axe Division, stating that Respondent will cease and desist, in accordance with the provisions of Division II, Subsections 1 (a), (b) and (c) hereof. Such notices shall remain posted for a period of at least thirty (30) consecutive days from the date of the approval of this stipulation by the National Labor Relations Board.

### III

It is further stipulated and agreed by and between the respective parties hereto, that in the event there is not compliance with the terms and provisions of the order of the Board as entered hereon, and it becomes necessary, in order to enforce its terms and provisions, to file a petition for enforcement of the same in the appropriate Circuit Court of Appeals of the United

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<sup>1</sup> The schedule referred to is set out in the Board Order as Schedule I.

States by the National Labor Relations Board, the Respondent, American Fork & Hoe Company, consents and agrees that a decree of the said Court, to the same effect, be entered upon said Order without further notice of application therefor.

#### IV

All stipulations herein made and the terms and provisions hereof are made subject to the approval of the National Labor Relations Board, and in the event the same is not so approved this stipulation shall not be considered an admission of any kind or character and shall not have any force or effect whatsoever.

On June 1, 1938, the Board issued its order approving the above stipulation, making it part of the record in the case, and transferring the proceeding to the Board for the purpose of entry of a decision and order by the Board.

The M. W. A. filed on June 9, 1938, a motion for hearing and bill of exceptions to settlement, and a brief in support of the motion.

On November 30, 1938, the respondent and counsel for the Board entered into a second stipulation of settlement. The second stipulation provides as follows:

#### SECOND STIPULATION OF SETTLEMENT

It is hereby stipulated and agreed by and between the American Fork & Hoe Company, by its attorneys, and W. J. Perri-cell, attorney, National Labor Relations Board, Ninth Region, that:

1. Paragraphs 3, 6 and 7 of part I of the Stipulation entered into in this matter on May 19, 1938 between the American Fork & Hoe Company and the Consolidated Workers of America, Incorporated, and Oscar Grossman, and Robert E. Green, attorneys, National Labor Relations Board, hereinafter referred to as the First Stipulation, be incorporated within and made part of this stipulation of settlement as if expressly set out herein;

2. In settlement of the allegations of the Complaint and Amended Complaint issued in this matter, in so far, and in so far only as such Complaint and Amended Complaint relate to the Master Workmen of America, Incorporated, 1305 E. Washington Street, Charleston, West Virginia, the American Fork & Hoe Company, waiving its right to file an answer and to hearing pursuant to Section 10 (b) and 10 (c) of the National Labor Relations Act on such Complaint and Amended Complaint as so related, hereby agrees that the National Labor Re-

lations Board may forthwith enter an order to the following effect:

Respondent, American Fork & Hoe Company, shall:

I. Take the following affirmative action, which the Board finds will effectuate the policies of the National Labor Relations Act:

(a) Offer to O. B. Lowry, the sum of One Hundred (\$100.00) Dollars.

(b) Offer employment to Robert Denson in the Forge Shop Department when needed in the Kelly Axe Division before any other person of less or equal seniority rating and efficiency is employed in the Forge Shop Department.

II. Respondent shall, within ten days after being notified by the Regional Director, Ninth Region, that the National Labor Relations Board has approved the terms of this stipulation, notify the Regional Director for the Ninth Region, in writing, what steps it has taken to comply with the order.

3. This Stipulation and the terms and provisions hereof are made subject to the approval of the National Labor Relations Board, and in the event the same is not so approved, this stipulation shall not be considered an admission of any kind or character and shall not have any force or effect whatsoever.

On June 22, 1939, the Board issued its order approving the above stipulation and making it part of the record in the case. The Board further ordered that the request by the M. W. A., that the Board "grant a hearing in this case," be denied. The M. W. A.'s exceptions of June 9, 1938, to the settlement of May 19, 1938, are hereby overruled.

On July 3, 1939, the M. W. A. transmitted to the Board its "Exceptions to Order Approving Second Stipulation of Settlement and Request for a Hearing." The exceptions and request are hereby overruled and denied.

Upon the above stipulations and the entire record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE RESPONDENT

American Fork & Hoe Company is an Ohio corporation having its principal office and place of business in Cleveland, Ohio. It operates a place of business known as the Kelly Axe & Tool Division of the American Fork & Hoe Company, herein called the Kelly Axe Division, located near Charleston, West Virginia, and there engages

in the manufacture and distribution of axes, scythes, and other tool products. As an integral part of its business, respondent also owns and operates plants in the States of Ohio, Pennsylvania, New York, Vermont, North Carolina, Georgia, West Virginia, Tennessee, and Indiana.

The principal raw materials used by the respondent at its Kelly Axe Division are steel, wood handles, grinding wheels, glue, and grain. The total cost of these raw and other materials for the fiscal year May 1, 1936, to April 30, 1937, was in excess of \$800,000. The respondent purchased these afore-mentioned raw and other materials in States of the United States other than the State of West Virginia, principally in the States of Pennsylvania, Ohio, Tennessee, Kentucky, Massachusetts, and New York, and has caused these raw materials to be transported in interstate commerce from the above-mentioned States to the State of West Virginia.

The value of said axes, scythes, and other tool products produced in the Kelly Axe Division was in excess of \$2,000,000 for the fiscal year May 1, 1936, to April 30, 1937. The respondent ships its finished products to purchasers in practically all of the States of the United States.

We find that the above-described operations constitute a continuous flow of trade, traffic, and commerce among the several States.

### ORDER

Upon the basis of the above findings of fact, stipulations, and the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, American Fork & Hoe Company, shall:

1. Cease and desist:

(a) From in any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection as guaranteed in Section 7 of the National Labor Relations Act;

(b) From discouraging membership in the Consolidated Workers of America, Incorporated, or in any other labor organization of its employees, by discharging, threatening or refusing to reinstate any of its employees for joining or assisting the Consolidated Workers of America, Incorporated, or any other labor organization of its em-

ployees, or for engaging in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(c) From in any other manner discriminating against any of its employees in regard to hire and tenure of employment, or terms and conditions of employment, for joining or assisting the Consolidated Workers of America, Incorporated, or any other labor organization of its employees, or for engaging in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(d) From hereafter employing or using the services of labor spies or otherwise engaging in any kind of labor espionage.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the National Labor Relations Act:

(a) Offer to the following, and no others, except as hereinafter provided:

- |                   |                       |
|-------------------|-----------------------|
| 1. Arthur Bogges  | 13. Ed. Milam         |
| 2. Coda Dyer      | 14. C. Basil McCubbin |
| 3. Edd Gadd       | 15. John McKinney     |
| 4. V. T. Graham   | 16. R. E. McKinney    |
| 5. Ursula Hammack | 17. Ira J. Miller     |
| 6. Clark King     | 18. J. P. Randolph    |
| 7. H. B. Hundley  | 19. Dorothy Rhodes    |
| 8. Alma Jarrett   | 20. Holly Sigmon      |
| 9. Delia Jones    | 21. Geo. Smith        |
| 10. Geo. Jones    | 22. Verda Thaxton     |
| 11. Alma Layne    | 23. Wm. Waugh         |
| 12. E. B. Mangis  |                       |

full reinstatement, restoring said twenty-three (23) employees to the positions which they held prior to the strike in June 1936, without prejudice to any seniority rights or to any other rights and privileges enjoyed by them; and in the event any of the positions held by any of the above-named employees previous to the strike in June 1936 are no longer in operation or existence, offer to such employees full reinstatement, without prejudice to any seniority rights or to any other rights and privileges previously enjoyed by them, to positions similar or substantially equivalent to those positions held by such employees prior to the strike in June 1936. Any twelve (12) of said employees shall be, in writing, so offered such reinstatement within ten (10) days after respondent is notified by the Regional Director that the National Labor Relations Board has approved the terms of the stipulation, and the balance of said employees shall be, in writing, so offered such reinstatement within thirty (30) days after said notification

## (b) Offer to

1. Staunton Campbell
2. Birdie Kessell
3. Nellie Thomas

full reinstatement, restoring said employees to the positions which they held prior to the strike in June 1936, without prejudice to any seniority rights, or to any other rights and privileges enjoyed by them; and in the event any of the positions held by any of the above-named three (3) employees previous to the strike in June 1936 are no longer in operation or existence, offer to such employees full reinstatement, without prejudice to any seniority rights or to any other rights and privileges previously enjoyed by them, to positions similar or substantially equivalent to those positions held by such employees prior to the strike of June 1936. Provided, however, that such reinstatement of each of said three (3) employees is conditional upon the receipt by respondent from the Regional Director, Ninth Region, of the National Labor Relations Board of the written results of a physician's physical examination of each of said employees, to be made within ten (10) days after respondent is notified by said Regional Director that said Labor Board has approved the terms of the stipulation, together with a written notice, based on said physical examination, of his determination that said employee is physically fit to be employed by respondent. In the event such Regional Director determines that any of said employees are suffering from such physical disability that he or she is unfit to be employed, then respondent shall be fully released from any obligation in respect to the reinstatement of such employee. In the event such Regional Director notifies respondent that he has determined that any of said employees should be so reinstated, then the respondent shall, within ten (10) days after the receipt of said notice from said Regional Director, offer said employee such reinstatement as aforesaid. The Regional Director shall designate one or more of the following physicians to make such physical examination:

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|----------------------|-----------------------|
| 1. G. C. Schoolfield | 4. S. H. Phillips     |
| 2. J. Ross Hunter    | 5. H. W. Angell       |
| 3. J. B. Banks       | 6. V. Eugene Holcombe |

(c) Offer to Walter Parsons, whenever a scythe grinder is needed by respondent in its said Kelly Axe Division and said Parsons is eligible therefor by reason of his seniority status as a scythe grinder, full reinstatement to the position which he held prior to the strike in June 1936, without prejudice to seniority rights or any other rights and privileges previously enjoyed by him;

(d) Place the following:

- |                     |                    |
|---------------------|--------------------|
| 1. Altha Atkinson   | 16. E. E. McKinney |
| 2. Carl Burnem      | 17. G. S. Meadows  |
| 3. Fred Burnem      | 18. E. M. Miller   |
| 4. C. R. Carney     | 19. Stacie Miller  |
| 5. Dorothy Carney   | 20. J. D. Mills    |
| 6. Waldo Carney     | 21. O. E. Parson   |
| 7. Odie Casto       | 22. C. B. Pitts    |
| 8. Garnet Chaney    | 23. Marvin Scragg  |
| 9. Osa Cummings     | 24. Pearl Shaffer  |
| 10. Howard Ford     | 25. Mabel Sigmon   |
| 11. W. W. Graham    | 26. J. R. Taylor   |
| 12. Clarence Harper | 27. Ova Taylor     |
| 13. Calle Jones     | 28. W. J. Waddy    |
| 14. Muriel Lanham   | 29. Lottie Woods   |
| 15. Delbert Legg    | 30. Gatha Woodson  |

on a preferential employment list which shall mean that each of said parties shall be reemployed by respondent when needed in said Kelly Axe Division before any other person of less or equal seniority rating and efficiency whose name does not appear on said list is employed in the department wherein the respective employee may have worked. In the case of equal or greater seniority rating of the employees named in the above list, and other employees of the respondent then laid off, the question of efficiency shall be submitted to the manager of said Kelly Axe Division and a representative of the National Labor Relations Board, Ninth Region, to be designated by the Regional Director, whose decision shall be binding.

In the event of disagreement between said representatives, the facts shall be submitted to the Regional Director, Ninth Region, whose decision shall be final.

In the event of the reemployment of any of the above employees, they shall receive full reinstatement, restoring said employees to the positions which they formerly held prior to the strike in June 1936, without prejudice to any seniority rights or to any other rights and privileges previously enjoyed by them.

Respondent shall, within ten (10) days after being notified by the Regional Director, Ninth Region, that the National Labor Relations Board has approved the terms of the stipulation, notify said employees, hereinbefore in this section (d) set forth, in writing to file a written statement expressing their desire that their names be retained on this preferential employment list, and if said written statement is not filed within thirty (30) days after the receipt, to be evidenced by a registered mail return receipt, of said written notice,

then such employee's right to be placed on said preferential list shall cease. In the event any of said employees are immediately needed by respondent, then the provisions of Section 2 (e) hereof shall apply;

(e) If any of said employees do not accept such offer of reinstatement by reporting for work at said Kelly Axe Division within ten (10) days after the receipt, to be evidenced by a registered mail return receipt signed by the respective employee, of a written offer of employment, their right to such reinstatement shall cease and terminate. Except said period of ten (10) days shall be extended for a maximum period of two (2) months if said employee is physically unable to report for work and so notifies respondent in writing, and gives respondent a written statement to that effect signed by a physician;

(f) Pay the sum of Five Thousand (\$5,000.00) Dollars in full settlement of any and all loss of pay suffered by the employees named in paragraph 7 and referred to therein as Schedule A of said Amended Complaint, and each of them, by reason of their discharge. Said sum shall be paid by respondent to the parties and in the amounts shown in Schedule I attached hereto and made a part hereof;

(g) Post notices to its employees in conspicuous places on each bulletin board in the Kelly Axe Division, stating that respondent will cease and desist, in accordance with the provisions of Section II hereof. Such notices shall remain posted for a period of at least thirty (30) consecutive days from the date of the approval of the stipulation by the National Labor Relations Board.

AND IT IS FURTHER ORDERED, that respondent, American Fork & Hoe Company, shall:

I. Take the following affirmative action, which the Board finds will effectuate the policies of the National Labor Relations Act:

(a) Offer to O. B. Lowry, the sum of One Hundred (\$100.00) Dollars;

(b) Offer employment to Robert Denson in the Forge Shop Department when needed in the Kelly Axe Division before any other person of less or equal seniority rating and efficiency is employed in the Forge Shop Department.

II. Respondent shall, within ten (10) days after being notified by the Regional Director, Ninth Region, that the National Labor Relations Board has approved the terms of the stipulation, notify the Regional Director for the Ninth Region, in writing, what steps it has taken to comply with the Order.

AND IT IS FURTHER ORDERED, that the complaint, in so far as it alleges unfair labor practices in regard to any individuals not specifically provided for above, be, and the same hereby is, dismissed.



*Schedule I*

<i>Name</i>	<i>Amount</i>
1. Bogges, Arthur-----	\$50.00
2. Burnem, Carl-----	100.00
3. Burnem, Fred-----	100.00
4. Campbell, Staunton-----	400.00
5. Carney, Waldo-----	100.00
6. Casto, Odie-----	100.00
7. Chaney, Garnet-----	100.00
8. Cummings, Osa-----	100.00
9. Dyer, Coda-----	50.00
10. Ford, Howard-----	100.00
11. Gadd, E. H.-----	100.00
12. Graham, V. T.-----	100.00
13. Hammack, Ursula-----	50.00
14. Harper, Clarence-----	100.00
15. Jarrett, Alma-----	100.00
16. Jones, Calle-----	100.00
17. Kessel, Birdie-----	300.00
18. Layne, Alma-----	50.00
19. Mangis, E. B.-----	150.00
20. McCubbin, C. B.-----	100.00
21. McKinney, E. E.-----	100.00
22. McKinney, John-----	50.00
23. McKinney, R. E.-----	100.00
24. Meadows, G. S.-----	100.00
25. Milam, Edward-----	150.00
26. Miller, E. M.-----	150.00
27. Miller, I. J.-----	100.00
28. Miller, Stacie-----	100.00
29. Mills, J. D.-----	50.00
30. Parsons, O. E.-----	200.00
31. Parsons, Walter-----	100.00
32. Pitts, C. B.-----	100.00
33. Randolph, J. P.-----	200.00
34. Rhodes, Dorothy-----	50.00
35. Shaffer, Pearl-----	50.00
36. Sigmon, Holly-----	50.00
37. Sigmon, Mabel-----	50.00
38. Smith, George-----	200.00
39. Taylor, J. R.-----	200.00
40. Taylor, Ova-----	100.00
41. Thaxton, Verda-----	50.00
42. Thomas, Nellie-----	50.00
43. Waugh, William-----	200.00
44. Woods, Lottie-----	50.00
45. Woodson, Gatha-----	100.00
Total—Five Thousand Dollars-----	\$5,000.00

MR. WILLIAM M. LEISERSON took no part in the consideration of the above Decision and Order.